

NOTICE OF PROPOSED REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3054, 3054.1, 3054.3, 3054.4, 3054.5, 3054.6, and 3054.7 in the California Code of Regulations (CCR), Title 15 to update current regulatory text and definitions primarily related to the California Department of Corrections and Rehabilitation Religious Diet Program.

PUBLIC HEARING:

Date and Time: **March 10, 2009 – 9:00 a.m. to 10:00 a.m.**
Place: Office of Training & Professional Development
Timber Peak Conference Room (Room 106)
10000 Goethe Road
Sacramento, CA 95827
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close, **March 10, 2009, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 341-7366; or e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 341-7390**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**D. Hawkins
Regulation and Policy Management Branch
Telephone (916) 322-8447**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Kimberlyn Young
Division of Adult Institutions
Telephone (916) 323-2812**

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT:

- Cost to any local agency or school district that is required to be reimbursed: *None*
- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:

The Department has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Director. Commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

- This action amends sections 3054, 3054.1, 3054.3, 3054.4, 3054.5, 3054.6 and 3054.7 of the California Code of Regulations (CCR), Title 15, Division 3, for the purpose of updating current regulatory text primarily related to Religious Diet Program.
- This action would amend the existing regulations to make provisions for a new halal meat alternate program, as a third religious dietary option for inmates. The halal meat alternate program would be available in all CDCR adult institutions statewide. Participation in the program would be open to Muslim inmates and other inmates with a religious need to consume halal meat, as determined by a Muslim Chaplain.
- Additionally, this action would amend the existing regulations for vegetarian diets. The action would modify the regulations to clarify that, along with its being available to inmates with a religious need, the vegetarian diet option shall also be available to inmates who seek that option based on a personal or ethical need. A personal or ethical need does not need to be religious in nature. The name of this dietary option would accordingly be shortened from "religious vegetarian diet" to "vegetarian diet."
- This entire action is necessary to accommodate the dietary needs of Muslim inmates and other inmates. The purpose of this action is to avoid future costly litigation and unnecessary expenses to the taxpayers of the State of California.
- Finally, this action would nominally change the rate to be charged, from \$.85 to \$1.00, for meals that are served to non-inmates and for the reimbursement of state purchased food. That rate change would help to offset increased departmental costs for food services.
- The reference to CDCR Form 3030 (Religious Diet Request), CDCR Form 3030-A (Religious Diet Program Agreement), and CDCR 3030-D (Religious Diet Cancellation Request) have been changed due to revisions to the forms, with a revision date of November 2008 (11/08). These forms now include language concerning the halal meat alternative program. These forms are part of the proposed regulatory package and have been made available for review.